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OFFICE OF PETITIONS

In Application of :
Mukherjee, et al. :
Application No.: 10/010,615 :
Filed: November 8, 2001 :
Attorney Docket No.: 249240US28 :
For: LOSSY LINEARIZERS FOR ANALOG :
OPTICAL TRANSMITTERS :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed December 28, 2006, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit a reply to the Notice of Drawing Inconsistency with Specification, mailed May 31, 2005, which set a non-extendable one month period for reply. No reply being received, the Office contended that this application became abandoned on July 1, 2005. A Notice of Abandonment was mailed on August 22, 2006.

Petitioners allege that the May 31, 2005 Notice was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have proven nonreceipt. A practitioner working at the correspondence address of record has attested to a fruitless search of the file jacket and docket records. Practitioner has referenced a docket record and a mail log where the non-received Office communication would have been entered had it been received.

The petition is **granted**, the holding of abandonment is withdrawn, and the August 22, 2006 Notice of Abandonment is **vacated**.

A courtesy copy of this decision will be mailed to the address listed on the petition. All future correspondence will be mailed to the address of record, unless a proper change of address is filed.

Since petitioner has submitted a reply to the May 31, 2005 Notice, it is unnecessary to re-mail it and set a new period for response.

After the mailing of this decision, the application will be returned to Publications Division for consideration of the amendment filed on December 28, 2006.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.



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